IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 4631 of 2007(B)

PETITIONER:

KUTTIPPULAN IRON & STEEL COMPANY PVT. LTD., NEAR CWC, KINFRA, WISE PARK, MENONPARA ROAD, KANJIKODE, PALAKKAD, REPRESENTED BY ITS DIRECTOR.

BY ADV. SRI.V.GIRI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY SECRETARY, INDUSTRIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. KERALA STATE ELECTRICITY BOARD, VYDYUTHIBHAVANAM, THIRUVANANTHAPURAM.

3. THE DEPUTY CHIEF ENGINEER, ELECTRICAL CIRCLE, PALAKKAD.

4. THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL SUB DIVISION, KANJIKODE, PALAKKAD.

5. THE CHIEF ENGINEER, ELECTRICAL DISTRIBUTION, (NORTH), KOZHIKODE.

6. THE ELECTRICAL INSPECTOR, PALAKKAD.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB
ADV. SHRI.P.N.SANTHOSH, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 4361/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE COMMUNICATION BEARING NO.DB1/HT/KUTTIPPULAN/2004/ 768 DATED 03/06/2005 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.

P2 : COPY OF THE DEMAND DRAFT NO.336408 ALONG WITH A LETTER ISSUED TOT HE 3RD RESPONDENT BY THE PETITIONER.

P2(a) : COPY OF LETTER FORWARDING EXT.P2 TO THE 3RD RESPONDENT.

P3 : COPY OF LETTER BEARING NO.DB 19/05-06/KUTTIPPULAN / 191/KJD/04/07/2005 OF THE 3RD RESPONDENT.

P4 : COPY OF THE RECEIPT EVIDENCING PAYMENT OF THE DEMAND MADE VIDE EXT.P3.

P5 : COPY OF THE ORDER BEARING NO.TS2/PA/KUTTIPPULAN IRON/2005-06/1753 DATED 02/08/2005.

P6 : COPY OF THE LETTER NO.DB1/HT/KUTTIPPULAN/2004/3282 DATED 07/02/2006 FROM THE BOARD.

P7 : COP7Y OF THE DEMAND DRAFTS AND THE RECEIPTS EVIDENCING PAYMENT.

P8 : COPY OF THE LETTER BEARING NO/TS2/PA/KUTTIPPULAN IRON/2005-2006/2957 DATED 05/07/2006 FROM THE BOARD.

P9 : COPY OF the ORDER BEARING NO.B1-2574/2006/EIP DATED 26/07/2006.

P10 : COPY OF THE ORDER BEARING NO.B4-10317/2006/CEI DATED 26/10/2006.

P11 : COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 26/07/2006 BEFORE THE BOARD.

P12 : COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 29/07/2006.

P13 : COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 02/11/2006.

P14 : COPY OF THE BOARD ORDER DATED 17/11/2005 TO THE PETITIONER.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 4631 of 2007

Dated, this the 18th day of July, 2007

J U D G M E N T

Prayer in the writ petition is for a direction to the respondents to give power connection based on Ext.P5 power allocation, and on Ext.P10 sanction order of the Chief Electrical Inspector for energisation. Learned Standing Counsel for KSEB submitted that Government decision taken on 09/08/2005 stands in the way, because it prohibits fresh connections to power intensive units. However it is seen that power allocation was given to the petitioner prior to the Government Order. Further the learned counsel for the petitioner produced Ext.P14 order of the Government, whereunder it is specifically stated that prohibition does not stand for industries set up prior to 01/10/2005. In this case, it is clear from Ext.P5 that power allocation is granted by KSEB to the petitioner on 02/08/2005. Obviously, petitioner was setting up the industry and would have advanced substantial amounts by the time Government introduced the prohibition. Since investment is already made by the petitioner, power supply cannot be denied, more so when the industry was set up based on power allocation made by the KSEB.

Accordingly, this writ petition is allowed directing KSEB to give connection to the petitioner's unit on petitioner complying with all the formalities. However, I make it very clear that available power should be first distributed for domestic use and Government is free to impose restrictions on consumption by power intensive industries, particularly, steel industries of the petitioner's type, where massive consumption of power takes place for melting scrap. KSEB is directed to give supply to petitioner's unit within one month from the date of production of a copy of this judgment and on petitioner meeting all the requisite formalities.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg